

Preliminary Amendment in RCE of Application Number 09/492,755
Art Unit: 1722
January 27, 2003
Page 7

Remarks

The Applicant thanks the Examiner for kindly accepting to discuss in a telephone interview the raised objections and for the very useful suggestions given.

The application is now amended as agreed during the telephone interview.

All the amendments are made without prejudice. The Applicant does not intend to abandon any subject matter present in the application as filed.

Claims 1, 3-5, 7-15 and 22 are cancelled. Claim 16 was rewritten in independent form and so as to avoid the wordings objected to as being indefinite. The new claims are submitted based on the original specification and claims. Particularly, claims 24-34 are based on original claims 16 and 2-5, 7-15, new claim 36 is based on original claims 16 and 4, new claims 35 and 37 are based on the original specification page 4, lines 25-26.

The claims pending now in the application, all directed to a recyclable container.

Particularly, the pending claims are claims 16-21 and 23-37 and are limited to a recyclable container for beverages and foods comprising a multi layer polyester material formed of an aromatic polyester resin.

It will be noted that the wordings indicated by the Examiner as being indefinite are no more present in the amended claims now submitted.

Entry of the amendments now submitted is respectfully requested as well as the reconsideration and withdrawal of all objections.

As already emphasized during the telephone interview with the Examiner, the claimed container is a recyclable container and as such it does not contain any layer which would render the container chemically heterogeneous and thus would render impossible recycling it.

Preliminary Amendment in RCE of Application Number 09/492,755
Art Unit: 1722
January 27, 2003
Page 8

It should be noted that even if one would have provided for foamed polyethylene terephthalate rather than paperboard and for a polyester resin foamed sheet having a density of less than 700 kg/m³ in Martin Jr., a recyclable container as claimed would not have been obtained. In fact, Martin Jr. container would still contain a polyolefin layer which renders the container chemically heterogeneous and therefore non-recyclable. To obtain a recyclable container, one would also have to eliminate the polyolefin layer from the container of Martin Jr, but by doing so a material unsuitable for the invention of Martin Jr. would be obtained, the polyolefin layer being indispensable for the flame sealing of the material, which is the essential feature of the container of Martin Jr. This is because the self sealable surfaces of a coextruded dual surface PET film bonded to both surfaces of the paperboard do not heat seal one to the other by flame sealing. Thus, to obtain a recyclable container, one should depart from the invention of Martin Jr. and make a new invention. In the claimed container no polyethene film is needed to obtain the heat sealing.

In view of the foregoing, favorable action on the merits, including entry and approval of all amendments, reconsideration and withdrawal of each rejection and allowance of all claims is respectfully solicited.

While it is believed that the amended claims properly define the present invention and distinguish the same over the art of record, applicant would be open to any suggestion the Examiner may have concerning different claim phraseology which, in the Examiner's opinion, more accurately defines the present invention and avoid indefinite formulations.

Respectfully submitted,



Guido MODIANO (Reg. No. 19,928)
Agent for the Applicant

Date: March 10, 2003
Address: Via Meravigli 16, 20123 MILAN-ITALY
Telephone: (from USA) (011)(39)(02)8590-7777
Telefax: (from USA)(011)(39)(02)863-860